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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,405	07/18/2003	Ame Hengerer	32860-000577/US	2812

30596 7590 10/30/2006

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EXAMINER

KHOLDEBARIN, IMAN KENNETH

ART UNIT	PAPER NUMBER
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3709

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/621,405	Applicant(s) HENGGERER ET AL.	
	Examiner I Kenneth Kholdebarin	Art Unit 3709	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/17/2003 and 07/18/2003</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. The drawings were received on 07/18/2003. These drawings are acceptable.

Claim Objection

2. Claims 5, 7, 9, 17, 18, 19, 20, 21 and 22 are objected to because of the following informalities:

Claim 5, line 3: "operatively coupled to the examination instrument," should be --
operatively coupled to the examination area --.

Claim 7, line 3: "movement of the living being other than along the tunnel" should be --
movement of the living being along the tunnel--.

Claim 9, 17, 18, 19, 20, 21 and 22 line 2, respectively: "CCD camera" should be -- CCD,
couple charged device, camera --.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 12, 26, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Byl (US 6,213,058).

Re Claim 1: Byl discloses a method comprising:

Stabilizing the living being in an examination area (10), using at least two gates (16, 18) for at least a predeterminable time period, wherein the examination area is operatively coupled to an examination instrument (30) and automatically carrying out the examination of the living being using the examination instrument, during the predeterminable time period (See Abstract; col.3 line 30-45).

Re Claim 2: Byl discloses a method comprising:

The examination area (10) and at least two gates (16, 18) are parts of an examination system, the examination system further including an entry (16), a discharge area (PEN#1) and exit (18) (See Fig 13; col. 3, line41-55).

Re Claim 3: Byl discloses a method comprising:

Closing a second (18) of the at least two gates (16, 18), closing a first of the at least two gates (16) as soon as the living being has entered the examination area (10), and opening the second gate (18) after having closed the first gate, and after the predeterminable time period has elapsed (See Abstract; col 3. line 40-55).

Re Claim 4: Byl discloses a method comprising:

The examination is started as soon as the living being is in the examination area (See col.3 line 50-52).

Re Claim 12: Byl discloses a method comprising:

Closing a second of the at least two gates (18), relatively closest to exit (18), closing a first of the at least two gates, relatively closest to the entry (16), as opening the second gate after having closed the first gate, and after the predeterminable time period has elapsed (See col. 3 line 41-48).

Re Claim 26: The limitation, “means for stabilizing the living being in an examination area for at least a predeterminable time period, wherein the examination area is operatively coupled to an examination instrument; and means for automatically carrying out the examination of the living being during the predeterminable time period.” invoke 35 USC 112, 6th paragraph.

Byl discloses a system comprising:

means for stabilizing, with telescoping horizontal adjustments (44), the living being in an examination area (10) for at least a predeterminable time period, wherein the examination area is operatively coupled to an examination instrument (30) and means for automatically carrying out the examination of the living being during the predeterminable time period (See col.3 line 48-50) and col. 3 line 30-55).

Re Claim 27: The limitation, “ means for stabilizing are parts of an examination system, the examination system further including an entry, a discharge area and an exit.” invoke 35 USC 112, 6th paragraph.

Byl discloses a system comprising:

means for stabilizing, with telescoping horizontal adjustments (44) parts of an examination system, the examination system further including an enter (16), discharged area and an exit (18) (See Fig 12; Col 3, line 41-53).

Re Claim 28: The limitation, “ means for stabilizing includes at least two gates and wherein a second of the at least two gates is first closed, a first of the at least two gates is then closed as soon as the living being has entered....” invoke 35 USC 112, 6th paragraph.

Byl discloses a system comprising:

means for stabilizing, with telescoping horizontal adjustments (44) includes at least two gates (16, 18) and wherein a second of the at least two gates is first closed, a first of the at least two gates is then closed as soon as the living being has entered the examination area (10), and the second gate is then opened after having closed the first gate, and after the predeterminable time period has elapsed (See col.3 line 32-53).

5. Claims 1-3, 5-7, 9, 11-13, 17, 19, 26, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayes (US 4,745,472).

Re Claim 1: Hayes discloses a method comprising:

Stabilizing the living being in an examination area (10), using at least two gates (48, 50) for at least a predeterminable time period, wherein the examination area is operatively coupled to an examination instrument (col. 1 line 66-68) and automatically carrying out the examination of the living being using the examination instrument, during the predeterminable time period.

Re Claim 2: Hayes discloses a method comprising:

The examination area (10) and at least two gates (48, 50) are parts of an examination system, the examination system further including an entry (48), a discharge area, and exit (50) (See Fig 1; col. 1, line 57-60).

Re Claim 3: Hayes discloses a method comprising:

Closing a second (50) of the at least two gates (48, 50), closing a first of the at least two gates (48) as soon as the living being has entered the examination area (10), and opening the second gate (50) after having closed the first gate, and after the predeterminable time period has elapsed (See col. 3, line 28-33).

Re Claim 5: Hayes discloses a device comprising:

an examination area (Fig. 1) and an examination instrument (18), operatively coupled to the examination area, and the living being (16) is examined during a predeterminable time period (col. 5, line 19-25) and is enclosable in the examination area during at least the predeterminable time period and the examination of the living being is carried out automatically by the examination instrument (18) during the predeterminable time period (See col. 5, line 19-23; col. 2, line 35-40).

Re Claim 6: Hayes discloses a device comprising:

two gates (48, 50) are adapted to enclose the living being (16) in the examination area (See Fig 1A; Col 1, line 57-65).

Re Claim 7: Hayes discloses a system comprising:

an entry (48), the examination area (10) and an exit (50) form an elongated tunnel (col. 2, line 35-40), including a diameter that substantially restricts the freedom of movement of the living being along the tunnel (See col.5 line 35-40).

Re Claim 9: Hayes discloses a system comprising:

wherein the examination instrument is a CCD camera, Camera (18) could be a CCD camera, the predeterminable time period is from 0.5 to 5 seconds (col.5 line 19-23), and the at least two gates are light-tight doors.

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Re Claim 11: Hayes discloses a system comprising:

the device is used for immobilizing animals (col. 4, line 56-58) during optical (18) in vivo domestic animal imaging (See col.4, line 56-58).

Re Claim 12: Hayes discloses a method comprising:

Closing a second of the at least two gates, relatively closest to exit (50), closing a first of the at least two gates, relatively closest to the entry (48), as opening the second gate after having closed the first gate, and after the predeterminable time period has elapsed (See col.3, line 7-33).

Re Claim 13: Hayes discloses a method comprising:

the examination area and an exit form an elongate tunnel, (12) including a diameter (col. 2, line 35-40) that substantially restricts the freedom of movement of the living being along the tunnel (See col. 2, line 35-40).

Re Claim 17: Hayes discloses a method comprising:

examination instrument is a CCD camera, (Camera 18 could be replaced by a CCD camera), the predeterminable time period is from 0.5 to 5 seconds, (See col. 5, line 19-21) and the at least two gates are light-tight doors.

Re Claim 19: Hayes discloses a system comprising:

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examination instrument is a CCD camera (Camera 18 could be replaced by a CCD camera), the predeterminable time period is from 0.5 to 5 seconds (col. 5, line 19-23), and the at least two gates are light-tight doors.

Re Claim 26: The limitation, “means for stabilizing the living being in an examination area for at least a predeterminable time period, wherein the examination area is operatively coupled to an examination instrument; and means for automatically carrying out the examination of he living being during the predeterminable time period.” invoke 35 USC 112, 6th paragraph.

Hayes discloses a system comprising:

means for stabilizing (col. 4, line 56-58) the living being in an examination area (10) for at least a predeterminable time period, wherein the examination area is operatively coupled to an examination instrument (18) and means for automatically carrying out the examination of the living being during the predeterminable time period (col.5 line 19-21).

Re Claim 27: The limitation, “ means for stabilizing are parts of an examination system, the examination system further including an entry, a discharge area and an exit.” invoke 35 USC 112, 6th paragraph.

Hayes discloses a system comprising:

means for stabilizing, (col. 4, line 56-58) parts of an examination system, the examination system further including an enter (48), discharged area and an exit (50).

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Re Claim 28: The limitation, “ means for stabilizing includes at least two gates and wherein a second of the at least two gates is first closed, a first of the at least two gates is then closed as soon as the living being has entered....” invoke 35 USC 112, 6th paragraph.

Hayes discloses a system comprising:

means for stabilizing, (col. 4, line 56-58), includes at least two gates (48, 50) and wherein a second of the at least two gates (50) is first closed, a first of the at least two gates is then closed as soon as the living being has entered the examination area (10), and the second gate (50) is then opened after having closed the first gate, and after the predeterminable time period has elapsed (col.3, line 29-33).

6. Claims 5, 6, 7, 9, 11, 13, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Scofield (US 5,644,643).

Re Claim 5: Scofield discloses a device comprising:

an examination area (Fig. 1) and an examination instrument (20), operatively coupled to the examination area, and the living being (64) is examined during a predeterminable time period and is enclosable in the examination area during at least the predeterminable time period and the examination of the living being is carried out automatically by the examination instrument (18) during the predeterminable time period (See Fig 1A; Col 3, line 55-65).

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Re Claim 6: Scofield discloses, a device comprising:

two gates (28, 30) are adapted to enclose the living being (64) in the examination area (See Fig 1A; Col 3, line 55-65).

Re Claim 7: Scofield discloses a system comprising:

an entry (36), the examination area (14) and an exit (26) form an elongated tunnel (16), including a diameter (col.5 line 15-17) that substantially restricts the freedom of movement of the living being along the tunnel (See col.3 line 55-66).

Re Claim 9: Scofield discloses a system comprising:

wherein the examination instrument is a CCD camera (18), the predeterminable time period is from 0.5 to 5 seconds (col.6 line 20-23), and the at least two gates are light-tight doors (See col.5 line 65-67 and col.6 line 1-5).

Re Claim 11: Scofield discloses a system comprising:

the device is used for immobilizing animals (64) during optical (18) in vivo domestic animal imaging. (See col. 6 lines 20-30).

Re Claim 13: Scofield discloses a method comprising:

the examination area and an exit form an elongate tunnel, (14) including a diameter (col.5 line 15-17) that substantially restricts the freedom of movement of the living being along the tunnel (See col5 line 15-19).

Re Claim 17: Scofield discloses a method comprising:

examination instrument is a CCD camera (18), the predeterminable time period is from 0.5 to 5 seconds, and the at least two gates are light-tight doors (See col. 6 line 1-5 and col.6 line 21-24).

Re Claim 19: Scofield discloses a system comprising:

examination instrument is a CCD camera (18), the predeterminable time period is from 0.5 to 5 seconds (col. 6 line 23-25), and the at least two gates are light-tight doors (See col.6 line 21-24 and Col 3, line 55-65).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Byl in view of Scofield. The teachings of Byl have been discussed above.

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Re Claim 10: However, Byl fails to disclose or fairly suggest the method for stabilizing animal during optical in vivo domestic animal imaging.

Scofield teaches the use of optical devices such as a CCD camera for examining the domestic animals (See col.6 line 1-5).

Therefore, in view of Scofield it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a coupled charge device for the taking images during the examination time in order to generate a better quality pictures and higher intensity within the selected time period.

9. Claims 23, 24, 25, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Byl in view of Carrano (US 5,183,008). The teachings of Byl have been discussed above.

However, Byl fails to disclose or fairly suggest the method wherein the predeterminable time period is from 0.5 to 5 seconds.

Carrano teaches the on-cycle timer that recognize when a domestic animal passes through the entrance and provides an on state signal in order to set the examination time for the given duration (See col.6 line 1-5, col.6 line 16-23).

Therefore, in view of Carrano it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sensor to set the examination time in order to expedite the process of examining more domestic animals.

10. Claims 8, 14-16, 18, 20, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scofield.

Re Claims 8, 14-16, 18, 20, 21 and 22 respectively: Scofield disclose the use of a CCD camera, for the selected duration examining time as recited in claim 18 (See col.6 line 1-5).

Although Scofield fails to disclose or fairly suggest the method wherein the examination area and the at least two gates are opaque, and wherein the examination instruments is an optical examination instrument, operatively coupled to the examination area via a window, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the apparatus as taught by Scofield by including a conventional opaque windows in order to prevent extraneous light from entering the imaging area.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Feldman discloses apparatus for diagnosis or treatment in the field of dentistry using fluoroscopic, Schiller discloses finger imaging apparatus, Rhodes discloses barrier

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regions for image sensors, Lin discloses multiple sensor camera, Khoshnevisan discloses acoustic-micro optic deflector, Kriesel '220 discloses apparatus and method for the volumetric and dimensional measurement, and Kriesel '373 discloses methods and apparatus for the dimensional measurement of livestock.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to I Kenneth Kholdebarin whose telephone number is 571-270-1347. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong-Suk (James) Lee can be reached on 571-272-7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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I.K.K

I. Kenneth Kholdebarin

October 12, 2006

A handwritten signature in black ink, appearing to read 'J. Lee', with a large, stylized initial 'J'.

JONG SUK LEE
SUPERVISORY PATENT EXAMINER